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ABSTRACT

This document is a report on the Children's Justice Act. The summary of the bill describes this act as a set of amendments to the Child Abuse Prevention and Treatment Act designed to assist the states in (1) reducing trauma to the child victim of abuse; (2) improving the chances of successful prosecution of legal action against child abusers and molesters; and (3) improving procedures for protecting children from abuse. The document contains the background, hearings, history, text, committee views, committee votes cast, budget estimates, regulatory impact, section by section analysis, and changes in existing law related to the bill. (ABL)

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99TH CONGRESS
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SENATE

REPORT
99-123

CHILDREN'S JUSTICE ACT

JULY 31 (legislative day, JULY 16), 1985.—Ordered to be printed

Mr. HATCH, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 140]

The Committee on Labor and Human Resources, to which was referred the bill (S. 140) to amend the Child Abuse Amendments of 1984 to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of sexual child abuse cases, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill (as amended) do pass.

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I. SUMMARY OF BILL

As reported from the Committee, S. 140 amends the Child Abuse Prevention and Treatment Act. It establishes, within the Department of Health and Human Services, a new federal grant program to assist the States in developing, establishing, operating or implementing programs and procedures designed to—

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(1) Reduce the trauma to the child victim of abuse especially child sexual abuse,

(2) Improve the chances of successful prosecution or legal action against child abusers and molesters and

(3) Improve procedures for protecting children from abuse.

The new grant program provides $12 million for each of the fiscal years 1987 and 1988.

The Children's Justice Act, like the Child Abuse Prevention and Treatment Act it is amending, provides a financial incentive to the States to encourage their enacting additional child protection reforms. No State will be automatically eligible. All States will be required to improve their responsiveness to cases of child sexual abuse as a condition for receiving additional funds under this Act. The legislation requires that the States must improve their response to child sexual abuse cases in the three general categories specified above. However, the States make the actual determination of which reforms they will enact within those three categories.

For a State to be eligible for its allocation of funds under S. 140, the State must establish or maintain a Multidisciplinary Task Force comprised of individuals and professionals involved in sexual child abuse cases. This Multidisciplinary Task Force will make recommendations to the Governor, the State Legislature, the Judiciary and others regarding the reforms needed to improve the response of such State to child sexual abuse in the categories specified in the bill.

The bill contains a provision which permits the State to utilize the recommendations of an existing or recently disbanded task force as long as its membership and functions are substantially the same as those called for under the Act. The reforms do not have to be legislative. They can be administrative or judicial reforms or proof that the State has made substantial improvement in implementing or enforcing existing State statutes or procedures. The legislation also contains a provision which requires a State which has not enacted a reform recommended by their State task force in all three categories to submit a detailed explanation to the Secretary, who may, after reviewing the States' efforts, grant them eligibility to receive funds under this Act.

The bill requires the National Center on Child Abuse and Neglect to compile, analyze and disseminate information about State statutes, programs, and procedures involving child sexual abuse cases within six months of enactment. To insure that all existing Federal resources are utilized, the bill requires the Attorney General, the Secretary of Health and Human Services and the head of any other agency involved in child abuse prevention and treatment to meet every six months to coordinate their efforts and avoid duplication. The bill directs the Secretary through NCCAN to develop and disseminate model training materials and procedures regarding child sexual abuse victims and provide for the support of research projects in this area.

The bill directs the Attorney General to modify the classification system used by the Federal Bureau of Investigation to include the description of child sexual abuse offenses, the age of the victim and the relationship of the victim to the offenders and classify such offenses by using a uniform definition of a child.

The bill amends the confidentiality provision in the Public Health Act which deals with federally alcohol and drug abuse prevention treatment programs to clarify that the federal confidentiality statutes do not supercede the application of State or local laws requiring the reporting of suspected incidences of child abuse.

II. Background and Need for Legislation

CHILD ABUSE PREVENTION AND TREATMENT ACT

The first Federal program specifically designed to address the problem of child abuse was authorized in 1974 under the Child Abuse Prevention and Treatment Act (P.L. 93-247). This Act provided for financial assistance for identifying, preventing, and treating child abuse and neglect. The Act defined child abuse to include sexual abuse of a child under age 18.

Some of the activities authorized under the original Child Abuse Act, including research and demonstration projects and a State grant program for child abuse related activities, have been amended and extended through FY 1987.

Amendments made in 1978 (P.L. 95-266) specifically authorized funds for FY 1978-1981 for preventing, identifying and treating child sexual abuse under the child abuse programs authorized by the Act. Funds were appropriated only for FY 1980 and FY 1981. The 1978 amendments also broadened the sexual abuse definition to include use of children in pornography or other sexual exploitation such as rape, molestation, incest, or prostitution.

Table 1 shows the authorized amount for sexual abuse activities under the Act from FY 1978-FY 1981 and the amounts appropriated for that activity for those years.

TABLE 1.—AUTHORIZATIONS AND APPROPRIATIONS FOR CHILD SEXUAL ABUSE ACTIVITIES UNDER THE CHILD ABUSE ACT

[In millions of dollars]

Fiscal year	Authorization	Appropriation
1978	3.0	0
1979	3.5	0
1980	4.0	4
1981	4.0	4

In each of FYs 1980 and 1981, $1.2 million of the $4 million appropriated was distributed in the form of State grants and the remainder was used for research, demonstration, and service improvement projects. Twenty-nine new sexual abuse-related discretionary grants were awarded in FY 1980 and 19 of these projects were continued in FY 1981. These projects included research on alternative ways of intervening in child sexual abuse cases; educating school age children to help prevent child sexual abuse; and on the use of children in pornography. Funding was also provided for five treatment training institutes which developed materials and inservice training programs to familiarize professionals with issues and treatment techniques relating to child sexual abuse.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) reauthorized the State grant program and the child abuse discretionary activities under the Child Abuse Act for FYs 1982 and 1983, but made no specific authorization for child sexual abuse activities.

The 1984 amendments to the Act (P.L. 98-457) earmarked funds for sexual abuse activities under the Act for FYs 1984-87 and redefined sexaul abuse to include using or encouraging a child under age 18 to engage in or simulate sexual explicit conduct in order to produce a "visual depiction" of the conduct; or the rape, molestation, or incest, prostitution or other sexual exploitation of children.

The 1984 earmark provides that $5 million will be available annually for demonstration and service projects for identifying, treating and preventing child sexual abuse unless the appropriations in any year are less than $30 million. In the latter case, one-half of whatever remains, after $20 million is set aside for child abuse State grants and demonstration projects, is to be available for the child sexual abuse activities.

In FY 1985, $26 million was appropriated for programs under the Child Abuse Act; of this amount, approximately $3 million has been allotted for projects dealing with issues relating to child sexual abuse. The Administration has proposed reducing the child abuse discretionary funding for FY 1986, but would alter the authorization language to continue a $3 million earmark for child sexual abuse activities in FY 1986.

Examples of the types of projects supported by the child sexual abuse funds in FY 1984 include a project to improve coordination among components of the court system in sexual abuse cases; a project to help improve parents' and teachers' knowledge of available sexual-abuse related resources and to help reduce the stigma of using these resources; a demonstration project to implement reforms and improve legal interventions in sexual abuse cases; a demonstration project that would implement a task force to coordinate efforts between protective services, the juvenile court system, and mental health centers to improve community and legal responses in sexual abuse cases; and a demonstration project to implement a task force to clarify the role of individuals and agencies (human services agencies, court system, law enforcement agencies, guardians ad litem, defense attorneys) in sexual abuse cases.

Need for the Legislation

The number of children suffering from child abuse, including child sexual abuse, is unknown. The two types of data available on child abuse are based either on reported cases—that is, cases reported by such agencies as hospitals or police, or by family members—or on polls conducted by a representative sample of families. It is argued by many researchers that child abuse is susceptible to underreporting for a variety of reasons, including that it carries a stigma and most often is conducted secretly and must be discovered to be reported; there are variations among States and localities regarding what offenses are categorized as child abuse; and difficulties in determining whether injuries resulted from abuse or from other causes. Some experts have argued that the number of unreported sexual assaults is at least three to four times the number of reported assaults.

National data collected by the American Humane Association based on reported incidents of sexual maltreatment of children indicate that the number of children reported as sexually maltreated has been rising since 1976, as shown in table 2.

TABLE 2.—NATIONAL ESTIMATED RATES AND NUMBERS OF CHILDREN REPORTED AS SEXUALLY MALTREATED

Year	Estimated number of children	Rate per 10,000 children
1976	7,559	1.14
1977	11,617	1.77
1978	12,257	1.89
1979	27,247	4.25
1980	37,366	5.87
1981	37,441	5.93
1982	56,607	9.02
1983	71,961	11.50

Source: The American Humane Association, Highlights of Offical Child Neglect and Abuse Reporting, 1983, p. 12.

Data collected in a State-by-State telephone survey of 24 States by the National Committee for Prevention of Child Abuse were used to project an estimated national figure of 123,000 reported child sexual abuse cases in 1984 (National Committee for Prevention of Child Abuse, Prevention Focus, Working Paper 008, revised February 1985, p. 3).

Thus, although the yearly increases in reported child abuse may reflect, in part, better reporting, it appears that the magnitude of the problem is increasing. Estimates on the total annual number of instances of child sexual abuse (not just those reported) range as high as 500,000.

Although there are no definitive data on whether or to what extent children are harmed by sexual abuse, some studies have found that children who have been sexually abused suffer both short-term and long-term effects, including social and psychological problems, and/or physical trauma. Manifestations include emotional and learning disorders, poor school performance, and, over time, suicidal and delinquent behavior. According to available research, the psychic trauma experienced by a child victim may have lasting effects. For example, one study specific to sexual abuse has been reported as finding that "many incest victims, particularly those still searching for some way to make sense of their experiences, still show psychological disturbance 20 years after the assaults" (Goodman, "The Child Witness: Conclusions and Future," Jounral of Social Issues, vol. 40, no. 2 (1984), p. 167).

These outcomes represent long-term social costs for society as well as for the individual children. Moreover, the economic costs to society have been calculated for an average child abuse/neglect case at $50,000 per year (Robert W. ten Bensel, in "Child Abuse and Neglect," Juvenile and Family Court Journal, winter 1984, p. 2-4).

In the 1970s, human services agencies began to recognize the need for responding to and treating victims of child sexual abuse, but such programs "have been slow in developing" (July/August

1982, Response to Family Violence and Sexual Assault, Center for Women Policy Studies, p. 1).

Robert ten Bensel, writing for the Juvenile and Family Court Journal, notes that "intervention, treatment and prevention programs are in the early stages of evolving and changing" and that "many therapists will not accept families or individuals for treatment unless they are under criminal court jurisdiction." He further notes that the "denial is very high and there is a real risk that the child may be further assaulted without proper safeguards" (p. 30).

A study addressing the processing of offenders against children done by the Bureau of Justice Statistics on four States for 1980 and 1981 found that "offenders against children are prosecuted and convicted more often than other offenders. Yet, fewer offenders against children are incarcerated and, when incarcerated, received shorter sentences to prison" (BJS Bulletin, December 1984, p. 1).

Reports from a study of the processing of child sexual abuse cases in Washington, D.C., during 1978 and 1979 indicate that in instances where the case has been forwarded for prosecution, the odds are less than one in three that the offenders will be convicted (Senate Hearings, "Child Sexual Abuse Victims in the Courts," May 2 and 22, 1984, Serial No. J-98-119).

There are also little data on the criminal histories of individual sexual offenders, e.g., number and types of crimes, repeat offenses, and the length of prison terms, or on their personal characteristics. Although recidivism rates for sexual abusers are thought to be high, comprehensive data on criminal recidivism are not available. A recent study by the Bureau of Justice Statistics (BJS) of State prison inmates in 1979 indicates a high degree of recidivism by offenders of all categories: an estimated 61 percent of those admitted to prison in 1979 were recidivists (had previously served a sentence) and an estimated 46 percent of these would still have been imprisoned at the time of admission if they had fully served the maximum of their last sentence (Examining Recidivism, BJS Special Report, February 1985, p. 1). This study does not isolate child sexual abusers, but of those convicted of rape and sexual assault, the median time spent outside before returning to prison was 28.6 months, and 15.1 percent returned within the first year after release (p. 4).

Reducing recidivism rates of sexual offenders is a major goal of treatment programs by correctional institutions. However, although there is some descriptive information on various treatment programs for sexual offenders, little is known about the effectiveness of the different programs in accomplishing this goal. In 1978, the Department of Justice (DOJ) published the results of a survey of treatment programs for sexual offenders, noting that, with some exceptions, "nothing in particular is being done about the vast majority of them and little or no attention is being paid to the particular factors which made these men sex offenders—and which may (or may not) lead them to commit future sex offenses" (U.S. Department of Justice, Law Enforcement Assistance Administration, Treatment Program for Sex Offenders, January 1978, p. v). Likewise, in December 1983, Federal Probation noted that because the majority of programs treating sexual offenders in the U.S. are less

than 10 years old, "measuring the effectiveness of these programs is still in its infancy" (Federal Probation, "Group Psychotherapy and Intensive Probation Supervision with Sex Offenders, A Comparative Study," by Joseph Romero and Linda Williams, p. 36). The authors also noted that "there is little empirical information available to provide the basis for making decisions as to the usefulness of these programs. . . ." (p. 36).

Concerns have also been expressed regarding how children are affected by the criminal justice system's handling of child sexual abuse cases. Researchers have noted the adverse emotional effects that participating in investigatory and judicial proceedings can have on the child abuse victim, calling it "secondary victimization" (Carl Rogers, Child Sexual Abuse and the Courts, reprinted in Senate Hearings, Serial No. J-98-119, p. 184). One expert has described this as the "victims' being placed 'on trial,' especially in sex-offense cases." (Gary B. Melon, p. 153, Senate Hearings). He notes that the investigation and trial "results in an exacerbation of psychological trauma and embarrassment" (p. 153).

Some of these effects are attributed to "insensitivity" to the needs of the child. For example, it is argued thet many police and prosecutors have little or no training in child development or in interviewing techniques and that children are thus inappropriately subjected to multiple interviews and grilling techniques. Others have noted that medical exams are sometimes not performed in a sensitive manner. One scholar in the field has noted that many legal requirements may "inadvertently endanger the child's mental health," citing as examples, "the need for repeated trial appearances, the presence of the defendant and news reporters in the courtroom, and the need to submit to cross examination" (Goodman, "The Child Witness: Conclusions and Future," Journal of Social Issues, vol. 40, no. 2 (1984), p. 167).

Some experts have also testified regarding the frustrations caused by some current legal requirements—such as prohibiting hearsey evidence and requiring competency tests of child witnesses—which hinder successful prosecution of child sexual offenders.

These concerns have elicited proposals for reform in the area of investigations and court procedures. These proposals often attempt to find a balance between the rights of the child and the Constitutional rights of the defendant, e.g., to confront witnesses and to receive a public hearing.

Legal reforms have been proposed to make victims more comfortable during the criminal justice procedures and less subject to fear or embarrassment. These proposals include requiring separate waiting rooms; providing victim counseling services; having specially trained law enforcement officers; eliminating or reducing the size of the audience when a child testifies; removing the defendant during the testimony; establishing special children's courtrooms; using a specially-trained, court-appointed attorney for interviewing childern; and videotaping interviews with the child for use during the trial, as opposed to the child's testifying in court.

III. Hearings and History of S. 140

A public hearing on S. 140 was conducted by the Subcommittee on Children, Family, Drugs and Alcoholism on May 2, 1985, with the following individuals providing testimony: Senator Alan Cranston, D-California; Andrea Landis of Miami, Florida, President, Justice for Sexually Abused Children; Miriam Gardner-Frum, Meriden, Connecticut, Jo Bulkley, Director, A.B.A. Child Sexual Abuse Law reform project; Debra Whitcomb, Cambridge, Massachusetts; Jack Yelverton and Bud Cramer, National District Attorney's Association; Margie Showers, Residential Services Director of Youth and Shelter Services, Des Moines, Iowa; and Kee McFarland, Children's Institute International, Los Angeles, California.

S. 140, a bill to amend the Child Abuse Amendments of 1984 to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of sexual child abuse cases was introduced by Senator Hawkins on January 3, 1985 and was referred to the Senate Labor and Human Resources Committee.

On March 11, 1985, the Committee requested comment on S. 140 from the Department of Health and Human Services and the Department of Justice and the Office of Management and Budget.

Hearings were held on May 2, 1985 by the Subcommittee on Children, Family, Drugs and Alcoholism. On June 26, 1985, the Subcommittee favorably reported S. 140 with amendments. On July 10, 1985, the full Committee on Labor and Human Resources favorably reported S. 140, as amended, to the United States Senate.

IV. Text of Bill as Reported

A BILL To amend the Child Abuse Amendments of 1984 to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of sexual child abuse cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That this Act may be cited as the "Children's Justice Act".

[Sec. 2. The Child Abuse Amendments of 1984 (Public Law 98-457) is amended by adding at the end thereof the following new title:

["TITLE IV—CHILDREN'S JUSTICE GRANT

["DECLARATION OF POLICY

["GRANTS AUTHORIZED

["Sec. 401. The Secretary of Health and Human Services (hereinafter in this title referred to as the 'Secretary') is authorized to make additional grants to States under section 4(a) of the Child Abuse Prevention and Treatment Act for identification, treatment, and prevention of sexual abuse in accordance with the eligibility requirements of this title.

[“ELIGIBILITY OF ASSISTANCE

[“SEC. 402. (a) A State is eligible for assistance under this title if the Secretary determines, that not later than one year after the date of enactment of this title, the State has enacted legal and administrative changes with respect to the investigation and prosecution of child sexual abuse cases as provided in subsection (b).

[“(b)(1) A State shall have in effect a child sexual abuse program which includes at least one statute or administrative procedure to carry out the purposes of the categories described in paragraphs (2), (3), and (4).

[“(2) A State shall provide for the handling of child sexual abuse cases in a manner which reduces the trauma to the child victim. Administrative procedures consistent with the reduction of trauma may include—

[“(A) the establishment of interdisciplinary teams of child abuse professionals such as law enforcement officers, child protective service workers, prosecutors, child's advocates, mental health professionals, and medical personnel for handling child sexual abuse cases;

[“(B) coordinated court proceedings for handling intrafamily child sexual abuse; or

[“(C) providing for specialized training of law enforcement, legal, judicial, and child welfare personnel to deal with child sexual abuse victims.

[“(3) A State shall establish reforms designed to improve the chances of successful prosecution or legal action against child molesters. Such reforms may include—

[“(A) a specific definition of child sexual abuse;

[“(B) modifications of certain evidenciary restrictions such as the hearsay rule, the corroboration requirement, and the qualification of child sexual abuse victims as witnesses to allow for the age of child sexual abuse victims; or

[“(C) establishing procedures for the videotaping of victims statements and testimony to protect the child sexual abuse victim from trauma.

[“(4) In order to improve procedures to protect children from sexual abuse, a State shall establish administrative statutory reforms such as—

[“(A) providing a guardian *ad litem* who is assigned to make an independent investigation and report to court on recommendations regarding what action should be taken that would be in the best interests of child;

[“(B) granting courts authority to grant civil protection orders to protect children from further abuse; or

[“(C) providing treatment programs for the child molester and sexually abused child.

[“(c) The categories of statutes and administrative procedures described in paragraphs (2), (3), and (4) of subsection (b) are intended to be general guidelines for State action. Each State is encouraged to develop innovative approaches toward achieving the objectives described in subsection (b).

[“REGULATIONS

[“SEC. 403. As soon as practicable after the enactment of this title, the Secretary shall issue such regulations as may be necessary to implement sections 401 and 402. In establishing regulations under this section the Secretary shall consider the purposes of this title.

[“AUTHORIZATION

[“SEC. 404. There are hereby authorized to be appropriated for the purposes of this title $12,000,000 for the fiscal years 1986 and 1987.”.]

SHORT TITLE

SECTION 1. This Act may be cited as the “Children's Justice Act”.

CHILDREN'S JUSTICE GRANT

SEC. 2. Section 4 of the Child Abuse Prevention and Treatment Act is amended by—

(1) redesignating subsections (d), (e), (f), the first time such subsection appears, and (f), the second time such subsection appears, as subsections (e), (f), (g), and (h), respectively; and

(2) inserting after subsection (c) the following:

“(d)(1) In addition to grants made to States under subsection (b), the Secretary is authorized to make grants to States for the purpose of assisting States in the developing, establishing, operating, or implementing programs or procedures for—

“(A) handling child abuse cases, especially child sexual abuse cases, in a manner which reduces the trauma to child victims;

“(B) improving the chances of successful prosecution or legal action against individuals who abuse children, especially individuals who sexually abuse children; or

“(C) improving procedures for protecting children from abuse, in accordance with the eligibility requirements of this subsection. Grants under this subsection may be made to the State agency which administers funds received under subsection (a) or to an appropriate statewide law enforcement agency which has developed a child abuse program which meets the requirements of paragraph (2). The determination as to which agency of a State may apply for a grant pursuant to the preceding sentence shall be made by the chief executive officer of such State.

“(2)(A) In order for a State to qualify for assistance under this subsection, such State shall, except as provided in subparagraphs (B) and (C)—

“(i) establish a multidisciplinary task force as provided in paragraph (3); and

“(ii) adopt reforms recommended by the multidisciplinary task force in each of the three categories provided in subparagraphs (B), (C), and (D) of paragraph (3).

For purposes of clause (ii), reforms may include proof that the State has made substantial improvement in implementing or enforcing State laws or administrative practices in effect on the date of enact-

ment of the Childrens' Justice Act as recommended by the task force of such State under paragraph (3).

"(B) If the Secretary determines, at the request of any State on the basis of information submitted by the State that such State—

"(i) has established a multidisciplinary task force within the 3 years prior to the enactment of the Children's Justice Act with substantially the same functions as the multidisciplinary task force provided for under this subsection; and

"(ii) is making satisfactory progress toward developing, establishing, operating, or implementing the programs or procedures in each of the three categories provided in subparagraphs (B), (C), and (D) of paragraph (3) and will continue to do so,

then such State shall not be required to meet the requirements of subparagraph (A).

"(C) A State may adopt reforms recommended by the task force of such State in less than all three of the categories provided in subparagraphs (B), (C), and (D) of paragraph (3), but in the event that a State fails to adopt any recommendation in a category the State shall submit to the Secretary a detailed explanation of the reasons for the State not planning to carry out any such omitted recommendation.

"(3)(A) Each State desiring to receive a grant under this subsection shall establish a multidisciplinary task force on children's justice composed of professionals experienced in the criminal justice system and its operation relating to issues of child abuse. The task force shall include representatives of the law enforcement community, judicial and legal officers including representatives of the prosecution and the defense, child protective services, child advocates, health and mental health professionals, and parents. Each State task force shall, for fiscal year 1987, review, analyze, and make recommendations for reforms needed to improve the response of such State to child abuse cases in each of the categories described in subparagraphs (B), (C), and (D).

"(B) A State shall provide for the handling of child abuse cases, especially child sexual abuse cases, in a manner which reduces the trauma to the child victim. Administrative procedures consistent with the reduction of trauma may include—

"(i) the establishment of interdisciplinary teams of child abuse professionals such as law enforcement officers, child protective service workers, prosecutors, child's advocates, mental health professionals, and medical personnel for handling child abuse cases;

"(ii) coordinated court proceedings for handling intrafamily child abuse; or

"(iii) providing for specialized training of law enforcement, legal, judicial, and child welfare personnel to deal with child abuse victims and their families.

"(C) A State shall establish reforms designed to improve the chances of successful prosecution or legal action against individuals who abuse children, especially individuals who sexually abuse children. Such reforms may include—

"(i) strengthening the State definition of child sexual abuse;

"(ii) modifications of certain evidenciary restrictions such as the corroboration requirement and the qualification of child

abuse victims as witnesses to allow for the age of child abuse victims; or

"(iii) establishing procedures for the closed-circuit televising or videotaping of victims testimony under circumstances which ensure procedural fairness while minimizing the trauma to the child abuse victim, especially child sexual abuse victim.

"(D) In order to improve procedures to protect children from abuse, especially sexual abuse, a State shall establish administrative reforms by law or, if possible, pursuant to law by administrative action, such as—

"(i) providing a guardian ad litem who is assigned to make an independent investigation and report to the court on recommendations regarding what action should be taken that would be in the best interests of the child;

"(ii) granting courts authority to grant civil protection orders to protect children from further abuse; or

"(iii) providing treatment programs for the individual who abuses children, especially the individual who sexually abuses children, and the abused child.

"(4) A grant authorized by this subsection may be made by the Secretary upon application which is made at such time or times and contains or is accompanied by such information as the Secretary may prescribe. Each such application shall—

"(A) contain such assurances as may be necessary to evidence compliance with paragraphs (2) and (3);

"(B) contain assurances that the State will comply with the requirements of paragraph (2)(A)(ii) during the fiscal year for which the grant is made; and

"(C) provide for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(5)(A) In order to assist the States in developing effective approaches to achieve the objectives set forth in paragraph (1), the Secretary, through the National Center on Child Abuse and Neglect established pursuant to section 2(a), shall—

"(i) compile, analyze, publish, and disseminate to each State a summary, including an evaluation of the effectiveness or lack thereof, of approaches being utilized, developed, or proposed with respect to improving the investigation and prosecution of child sexual abuse cases in a manner which reduces the trauma to the child victim along with such other materials or information as may be helpful to the States in developing or implementing programs or procedures to satisfy the requirements of this subsection;

"(ii) develop and disseminate to appropriate State and officials model training materials and procedures to help ensure that all law enforcement, legal, judicial, and child welfare personnel are adequately trained to deal with child sexual abuse victims; and

"(iii) provide for the support of research projects to assist in identifying effective approaches to achieving the objectives of this subsection.

"(B) Not later than two years after the date funds are obligated under section 5(b) for the first fiscal year, the Secretary shall—

"(i) review and evaluate the effectiveness of the activities carried out with such funds in achieving the objectives of this subsection; and

"(ii) report to the appropriate committees of the Congress on the results of such review and evaluation and on the steps taken by the Secretary, through the National Center on Child Abuse and Neglect Center, to assist the States in achieving such objectives.

"(C) The summary, information, and materials required under subparagraph (A) shall be made available to appropriate State officials not later than 180 days after the date of the enactment of the Children's Justice Act.".

AUTHORIZATION

SEC. 3. Section 5 of the Child Abuse Prevention and Treatment Act is amended by—

(1) inserting "(a)" after "SEC. 5."; and

(2) inserting at the end thereof the following:

"(b) There are authorized to be appropriated $12,000,000 for each of the fiscal years 1987 and 1988 for the purposes of making grants under subsection (d) of section 4.".

COORDINATION OF FEDERAL PROGRAMS INVOLVING CHILD ABUSE

SEC. 4. Section 7 of the Child House Prevention and Treatment Act is amended by—

(1) inserting "(a)" after "SEC. 7."; and

(2) inserting at the end thereof the following:

"(b)(1) Within 180 days of the date of enactment of the Children's Justice Act and every 6 months thereafter, the Attorney General, the Secretary of Health and Human Services, Secretary of Education, and the head of any other agency or department designated by the President, or their designees, responsible for programs involving child abuse prevention and treatment shall meet for the purpose of coordinating such programs in order to—

"(A) prevent the overlap of such programs and the resulting waste of resources; and

"(B) assure that such programs effectively address all aspects of the child abuse problem.

"(2) Within one year of the date of enactment of the Children's Justice Act and annually thereafter, the Secretary of Health and Human Services shall report to Congress with respect to the actions carried out by agencies and departments of the United States for the purpose of coordinating programs involving child abuse prevention and treatment as provided in paragraph (1).".

MODIFICATION OF FBI OFFENSE CLASSIFICATION SYSTEM

SEC. 5. The Attorney General shall modify the classification system used by the National Crime Information Center in its Inter-

state Identification Index, and by the Identification Division of the Federal Bureau of Investigation in its Criminal File, and its Uniform Crime Reporting System, with respect to offenses involving sexual exploitation of children by—

(1) including in the description of such offenses the age of the victim and the relationship of the victim to the offenders; and

(2) classifying such offenses by using a uniform definition of a child.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 6. (a) Section 523 of the Public Health Service Act (42 U.S.C. 290dd-3) is amended—

(1) by striking out "subsection (e)" in subsection (a) and inserting in lieu thereof "subsections (e) and (i)"; and

(2) by adding at the end the following new subsection:

"(i) Nothing in this section shall be construed to supersede the application of State or local requirements for the reporting of incidents of suspected child abuse to the appropriate State or local authorities.".

(b) Section 527 of such Act (42 U.S.C. 290ee-3) is amended—

(1) by striking out "subsection (e)" in subsection (a) and inserting in lieu thereof "subsections (e) and (i)"; and

(2) by adding at the end the following new subsection:

"(i) Nothing in this section shall be construed to supersede the application of State or local requirements for the reporting of incidents of suspected child abuse to the appropriate State or local authorities.".

Amend the title so as to read:

To amend the Child Abuse Prevention and Treatment Act to establish a program to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of the child abuse cases, especially child sexual abuse cases.

V. COMMITTEE VIEWS ON S. 140

NEW GRANT PROGRAM

S. 140 establishes a new federal grant program designed to fund and promote child protection reforms targeted at the treatment of child victims of abuse, especially sexual abuse during the administrative and judicial proceedings. The Child Abuse Prevention and Treatment Act authorizes federal funds to States to encourage child protection reforms which are focused on the prevention, identification and treating of incidents of child abuse. The Children's Justice Act, by amending the Child Abuse Prevention and Treatment Act, focuses its funding and child protection reforms on the handling of child abuse cases, including case management, after the incident is reported.

The Committee recognizes the success of the original Child Abuse Prevention and Treatment program and the valuable services that have been funded under this Act. The unanimous vote within Subcommittee and Full Committee to report favorably a federal grant program was based on the Committee's belief that equal attention should be given to the treatment of the child abuse

victim during the administrative and judicial proceedings. Therefore, the Committee has unanimously approved S. 140, as amended, to provide $12 million in each of the fiscal years 1987 and 1988. The Committee wishes to stress that it considers both types of reforms to be of equal value and necessity and would oppose efforts to reduce funding for one grant program in order to provide funding for the other.

Since the intent of the Children's Justice Act is to provide a federal financial incentive to States to enact new reforms, not reward them for existing child protection statutes and programs, the funding authorized under the program was changed from Fiscal Years 1986 and 1987 to Fiscal Years 1987 and 1988. This alteration was made in recognition of the fact that the States will need time to establish Multidisciplinary Task Forces, make reports and recommendations and act upon those recommendations.

MULTIDISCIPLINARY TASK FORCES

The Committee recognizes that States have enacted a variety of child protection reforms designed to improve their handling of child abuse cases. A number of these States have established Multidisciplinary Task Forces of Child Abuse experts to guide them in identifying areas where improvement is needed. The Committee believes that these multidisciplinary task forces, comprised of individuals and professionals with direct experience with child abuse cases are better equipped to assess a State's strengths and weakness and recommend needed reforms than a Federal agency or Congressional body. Therefore, the Committee has added a provision to S. 140 that requires each State to establish or maintain an existing Multidisciplinary Task Force of Child Abuse professionals to study and recommend reforms in the three areas specified in the bill.

The Committee wishes to avoid unnecessary duplication of effort and thus would permit States to utilize the recommendations of existing or recently disbanded State Child Abuse Task Forces as long as the membership and functions of the Task Force are substantially similar to requirements included in the Act. The legislation suggests organizations and individuals who should be represented on the State Multidisciplinary Task Force. The list is not intended to be exclusive and the Committee urges the States to consider representation by educators, clergy, and other organizations that are involved with victims of child abuse during the administrative and judicial proceedings.

It is the intention of the Committee that States enact at least one reform recommended by their State Task Force in each of the three categories enumerated in the bill in order to the eligible for a federal grant under the Children's Justice Act. The Committee recognizes that many States have taken the lead in child protection reform and a few have recently enacted the types of child protection reforms that have been cited by this Act. However, the Committee, based on the testimony presented before the Subcommittee, believes that each State can and should improve its response to the handling of child abuse cases.

The Committee agrees with the testimony presented at the hearing that the most significant improvements within the State may not require statutory or even administrative change. Therefore, the Committee encourages the State Task Force to consider reforms which may be accomplished by administrative or judicial order, or by improvements which can be achieved by better enforcement of existing laws or procedures. While the Committee feels that the State should be guided by the report and recommendation of their State Multidisciplinary Task Forces, the Act does provide authority to the Secretary to provide funding to a State if they provide the Secretary with an explanation regarding why they did not implement a reform in one of the categories enumerated in the Act.

ALLOCATION AND DISTRIBUTION OF FUNDS

The Committee intends that the funds authorized under the Childrens' Justice Act be allocated among the States and territories in the same manner as the State grants distributed under the Child Abuse Prevention and Treatment Act. It is also the Committee's intention that the Children's Justice Act be a separate categorical program and therefore States that are not eligible for funds under the Child Abuse Prevention and Treatment Act may still be eligible for grants under this Act as long as they meet the separate eligibility requirements of the Children's Justice Act. It is the intention of the Committee that the funds allocated under this Act be used for the same purposes as the reforms enumerated in the Act. However, the grant monies are not restricted to funding or implementing new reforms but can be utilized to fund existing programs and services in any or all of the three categories specified in the Act.

STUDIES AND REPORTS BY THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Testimony presented to the Subcommittee on Children, Family Drugs and Alcoholism attested to the wide variety of child protection reforms adopted and implemented by the States. The Committee feels that it is a proper function of the Federal government to compile, analyse and disseminate information regarding the child protection reforms being utilized or under consideration by the various States to aid the State Task Forces in making their report and recommendation and the Governor and/or State legislatures in determining which recommendation to implement. The Committee recognizes that both the Department of Health and Human Services and the Department of Justice have specialized expertise in this area and both Departments have funded research projects that may be of assistance in compiling this report and therefore urges the agencies to work together in an expedited manner to make this information available to the States.

The National Center on Child Abuse and Neglect is also charged with the responsibility of developing and disseminating model training materials and procedures to improve the training of personnel who work with child sexual abuse victims. S. 140 also directs the National Center on Child Abuse and Neglect to continue to fund research projects and programs under their discretionary

authority that would assist in identifying effective approaches to improve the handling of child abuse cases. The Committee recognizes the valuable research that has been funded by NCCAN in the past and wants to encourage further support in this area.

MODIFICATION OF FBI OFFENSE CLASSIFICATION SYSTEM

Section 5 of the bill requires the Attorney General to modify the classification system used by the National Crime Information Center's Interstate Identification Index, and the FBI's Criminal File and Uniform Crime Reporting System. The classification system for offenses involving sexual exploitation of children is modified by including the age of the victim and the relationship of the victim to the offenders and use a uniform definition of a child.

IMPROVING REPORTING OF SUSPECTED INCIDENCES OF CHILD ABUSE

Section 6 of the Act amends Section 523 of the Public Health Service Act to clarify that the provisions requiring confidentiality of patient records for participants in federally assisted alcohol and drug abuse treatment programs do not supercede state reporting requirements that require reporting of all incidences of child abuse, neglect and molestation.

SUGGESTED REFORMS

Suggested reforms designed to reduce the trauma to a child victim include coordinating court proceedings, improving techniques for interviewing a child, training law enforcement and prosecutors in how to interview children, providing a victim-witness advocate, or guardian-ad-litem to represent the child's interests during legal proceedings, insuring that one prosecutor is assigned throughout the legal proceedings when possible.

Need for support person or victim witness advocate

A child and the law Sub-group of the National Council and Juvenile and Family Court Judges meeting in a National Symposium on the Child Victim of sexual abuse stressed the need for a support person provided or appointed for all children serving as witnesses in criminal court.

Improved techniques for interviewing child victim

Since the child victim is often the only witness to the crime of child sexual abuse, the interviewing process designed to elicit that testimony from a child is of paramount importance. Care must be taken not only to elicit the information but also to avoid multiple interviews which may further traumatize the child.

Training of law enforcement officers

The police are likely to be the first professionals to interview children. While much of what the police do may be constrained by practicalities and need to obtain certain types of evidence quickly, there are areas where police practice can not only reduce the trauma to the child victim, but improve the accuracy of a child's report. A witness testifying at the Subcommittees' May 2nd hear-

ing, who testified about her experiences as a police officer and the lack of training and sensitivity of the law enforcement officers who interviewed her abused child. The witness, Andrea Landis, stressed the need for questions to be given to the child victim by an interpreter who is specially trained to illicit the truth from a child.

Dr. Gail Goodman, of the University of Denver has suggested that the initial interview should be conducted by highly trained professionals, not field officers, she stressed training professionals on the need for a relaxed, familar environment; care in restraining the parent from using suggestive questions, interviewers should recognize that children may not be able to provide accounts in chronological order and that their verbal abilities are limited. This has prompted many experts to recommend that an interviewer trained in child development skills, and who speaks the language called "child" interview the child. One suggestion has been for the prosecution and defense attorney's to submit questions to the trained interviewer, but they themselves would not be able to directly interview or cross-examine the child in order to avoid additional trauma. This proposal has been practiced in other countries, notably Israel.

The Committee wants to stress however, that preventing multiple information gathering interviews requires far more than simply purchasing videotape equipment. The interviews must still be conducted by a individual who is trained in child development and interviewing techniques and the taped interviews must be recognized as valuable by other individuals within the system. The Committee recognizes that the most important aspect of avoiding duplicate interviews is one which can neither be legislated or mandated. It is the cooperation between individuals and organizations who despite common goals have non-mutual interests in the kinds of information needed and the process by which it is gathered. These organizations and individuals are urged to work together to develop agreement among themselves regarding who will conduct the interview, the interview techniques, what the interview will be used for, who will have access to the interview material and what information must be included.

Priority in docketing

The National Council on Juvenile and Family Court Judges recommends that every effort should be made to make sure that cases of child sexual abuse be given priority in court docketing and avoiding unnecessary delays.

Multidisciplinary teams of professionals

One of the most frequently cited recommendations for reducing trauma to the child victim of sexual assault is to develop an interagency, coordinated approach to handling these cases. The 1982 recommendations for improving legal intervention in Intrafamily Child Sexual Abuse cases by the National Legal Resource Center for Child Advocacy and Protection cited the benefits as greater efficiency, coordination, expertise and shared information, improved delivery of services and treatment plans, peer support and morale boosting. This need for an interagency, multidisciplinary approach to child sexual abuse cases has been echoed by the National Coun-

cil on Family and Juvenile Court Judges, the National Association of District Attorneys and the National Association of Attorney Generals. The Attorney General's Task Force on Family Violence also urged that communities should develop a multi-disciplinary team to investigate, process and treat all incidents of family violence, especially cases of physical and sexual abuse of children. While this approach is gaining widespread acceptance among many states, even being mandated by some state child abuse and neglect reporting laws, its effectiveness, like any program varys from one jurisdiction to another. Care should be taken when establishing such an approach not to delay the intervention process or alter the responsibilities of professionals involved in cases of sexual child abuse.

Coordination of court proceedings

Since many cases of child sexual abuse involve a child protection proceeding or a civil protection order proceeding as well as a criminal proceeding, coordination between court proceedings is needed to minimize the trauma to the child and make more efficient use of judicial mechanisms. The National Council on Family and Juvenile Court Judges, who are often faced with multiple proceedings, agreed that juvenile and criminal proceedings should be coordinated with a decision made as to which is the most desirable court setting.

Another critical point at which communication between the courts is important is the sentencing stage of the criminal process. In California, the dependency process takes from three to five weeks while the felony child abuse prosecution takes from three to four months. The sentencing judge must decide what is to be done with the offending parent after the juvenile court judge has decided upon a program for the child.

REFORMS DESIGNED TO IMPROVE LEGAL INTERVENTION

A variety of reforms have been considered by various jurisdictions in order to improve the chances of successful prosecution of child abusers. The statute specifically mentions several noteworthy reforms, such as modifications or corroboration requirments or repeal of competency provisions and instituting procedures for receiving the testimony of the child abuse victim. This recitation, however, is not meant to be all-inclusive or to exclude any other reforms which a state may wish to consider.

Competency: According to testimony presented at the May 2, 1985 hearing on S. 140, since the enactment of the Federal Rules of Evidence and adoption of the Uniform rules of evidence in many states, there has been a trend away from the competency criteria. A National Institute of Justice funded study entitled: When the Victim is a Child: issues for Judges and Prosecutors revealed that 20 states dictate that every person is competent, thirteen states presume that anyone is competent if he or she understands the oath or the duty to tell the truth, regardless of age, in thirteen states a child above the age of 10 is presumed competent, five states stipulate that a child is competent to testify if he or she understands the nature and obligation of the oath and five states use

the common law standard which holds that a child above the age of 14 is presumed competent. Three states that normally apply the 10 year standard have recognized the need for a child's testimony in sexual abuse cases by adopting an exception for these cases.

Videotaped Testimony: More serious constitutional questions arise concerning the use of videotaped testimony. Videotaping statutes generally allow the testimony of a child victim of sexual abuse to be preserved on videotape for presentation to the jury at trial, thus sparing the child repeating appearances in court or preserving testimony from a witness, who may be emotionally unable to testify in court.

Various states have taken differing approaches to this problem. Thirteen states have adopted laws authorizing the introduction of videotaped testimony taken at a deposition or preliminary hearing. Three states explicitly prohibit the government from calling the child to testify in person if the videotape is introduced. Two states reserve the right for the government. Eleven states require the defendant to be present during the videotaping although two of these states specify that the child must not be able to hear or see the defendant. Six states stipulate that the defendant be provided a full opportunity to cross-examine the child; two more states require the child's testimony to be taken under the rules of Evidence. Eight states require a showing that testifying will be traumatic or that the witness is medically or otherwise unavailable.

The Committee does not endorse any particular approach. The Act emphasizes that any reform in this area should both ensure procedureal fairness to the accused and minimize the trauma to the child abuse victim. The Committee intends that States determine which methods they will adopt in order to increase their effectiveness in improving legal intervention.

Closed circuit television

One alternative to testifying in a traditional courtroom setting has been the use of closed-circuit television to present the testimony of a child victim in a sexual abuse trial. It has the advantages of providing live testimony at trial, via cameras and monitors from room to room. The Eight Circuit Court of Appeals (*United States* v. *Benfield* 593 F.2d. 815 1979) has held that one-way or partial confrontation violates the Defendants right to confront his accuser. However, the court implied that two-way closed circuit television, however, would satisfy the Constitutional requirements of the Confrontation clause (Sixth Amendment of the U.S. Constitution). Indeed, the Missouri Supreme Court has upheld the constitutionality of two-way closed circuit television (*Kansas City* v. *McCoy* 525 S.W. 2d 815 1979).

Reforms designed to break the cycle of abuse

Suggestions include prevention and education programs, treatment and counseling programs for victim of sexual child abuse, treatment and support program for families of victims, and treatment and counseling programs for child molesters.

Civil protection orders

Many states have Domestic Violence Statutes which authorize civil protection orders to prevent violence by one member of a household by another. These civil protection orders permit judicial issuance of an order to either vacate the home, limit contact or communication with the child victim or other children in the household, refrain from further abuse, obtain counseling or participates in specialized treatment. The primary benefit of these protection orders is that they obviate the need for removing the child from the home by ordering the abuser to vacate the household and refrain from contact with the child. The Committee believes that equally important to the availability of civil protection orders are the arrest and other powers granted to law enforcement personnel handling civil protection order violations.

Treatment program for the child abuser

The Committee does not believe that the issue is whether to treat or incarcerate a child molester but rather how to wed both system in order to protect children and break the cycle of abuse. A study by Dr. Abel, Director of the Sexual Behavior Clinic in New York State Psychiatric Institute, found that the child molesters he studies were "responsible for molesting an average of 68.3 victims, more than three times the number of adult women assaulted by each rapists".

A witness at the May 2nd Subcommittee hearing Kee McKarlane, pointed out that the child molester is not always an adult and that often a victim of child molestation becomes a molester. She testified that—

> My agency has a treatment program in the Center called SPARK. It stands for support program for abuse-reactive kids. These are all child molesters, and they are all under the age of 12. I have three four year olds. . . . When I asked them what changed in their lives after they had molested other kids—their nightmares that had started within they got abused stopped when they started abusing other children.

Treatment programs for the abused child

Research conducted by the Family Violence Research project (The Impact of Child Sexual Abuse: A Review of the Research, Angela Brown and David Finkelhor July 1984) and supported by grants from the National Institute of Mental Health and the National Center for Child Abuse and Neglect gives a good indication of the impact on child sexual abuse. Anxiety, fear, guilt, shame, depression, stigma were all associated with sexual abuse. Sexual problem, learning problems, behavioral problems in school, and other effects on social functioning were also noted. Other studies indicated that sexual exploitation of a child may result in later drug abuse (Benward and Densen-Gerber 1976), juvenile delinquency (Halleck 1962) adult clinical depression (Summit and Kryso 1978) juvenile prostitution (James and Meyerding 1977).

One model for child sexual abuse program has been the Child Sexual Abuse Treatment Program of Santa Clara County, Califor-

nia started in 1971 by Hank Giarretto, Ph.D. which provides in-depth professional and self-help treatment to more that 6,000 sexually abused children and self-help treatment to more that 6,000 sexually abused children and their families. The program reported that of the 75 couples treated during 14 years, there have been only two reoccurrences and 90% of the marriages continued. In 10 years more than 3,000 families have been provided services by the Child Sexual Abuse Treatment Program and the recidivism rate for these individuals is 0.6%, much lower than any comparable studies in the literature on incest or child abuse. This indicates that sexually abused children who do receive adequate treatment and counseling do not exhibit the same self-abusive behavior demonstrated in victims who did not receive treatment.

VI. Tabulation of Votes Cast in Committee

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended the following is a tabulation of votes cast in Committee on S. 140.

On June 26, 1985, the Subcommittee on Children, Family, Drugs and Alcoholism unanimously voted to favorably report the bill to the full Committee as amended.

On July 10, 1985, the Senate Labor & Human Resources Committee unanimously voted to favorably report the bill as amended.

VII. Budget Estimates

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 29, 1985.

Hon. Orrin G. Hatch,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 140, the Children's Justice Act, as ordered reported by the Senate Labor and Human Resources Committee on July 10, 1985.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Rudolph G. Penner, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Bill number: S. 140.

2. Bill title: Children's Justice Act.

3. Bill status: As ordered reported from the Senate Labor and Human Resources Committee on July 10, 1985.

4. Bill purpose: The purpose of this bill is to authorize and establish a new discretionary grant program for 1987 and 1988 for child abuse prevention. This grant program would assist states in developing, establishing, operating, and implementing programs and procedures for protecting children from child abuse, handling child abuse cases, and improving the chances of successful prosecution or

legal action against individuals who abuse children. This bill is subject to subsequent appropriatons action.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990
Authorization level		12	12		
Estimated outlays		7	11	6	

The cost of the bill falls in Function 750.

Basis of estimate: The authorization levels associated with the Children's Justice Act are those specifically stated in the bill. Estimated outlays reflect the current spending pattern of similar grants to states for child abuse prevention.

6. Estimated cost to State and local governments: S. 140 would establish a new categorical grant to states program for child abuse prevention. There are no state fund matching requirements. In order for a state to be eligible for a grant under this act, however, they must have or establish a multidiciplinary task foce on child abuse to recommend to state officials and agencies needed reforms.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deborah Kalcevic.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

VIII. Regulatory Impact Statement

The Committee has determined that there will be a minimal increase in the regulatory burden or paperwork imposed by this bill.

IX. Section-by-Section Analysis

Section 1 gives the short title of the Act as the Children's Justice Act.

Section 2 establishes a new grant program under the Child Abuse Prevention and Treatment Act to assist States develop, establish, operate, or implement programs or procedures to improve the handling of child abuse, especially sexual abuse, cases. To be eligible for such assistance, States must establish a multidisciplinary task force composed of criminal justice professionals—except those States that established such a task force, which is progressing toward the same goals, within three years of enactment—to review, analyze and recommend reforms for FY 1987 to improve the State's response to child abuse cases in each of three categories: handling of child abuse cases, especially sexual abuse cases, to reduce the trauma to the victim; improving the chances of successful prosecution or legal action against the offenders; and improving procedures through administrative action or law to protect children from abuse, especially sexual abuse. Reforms to reduce trauma may include establishing interdisciplinary teams of child abuse professionals for handling child abuse cases; coordinating court proceedings for handling intrafamily child abuse; or providing special-

ized training for child abuse professionals to deal with child abuse victims and their families. Reforms to improve chances of successful prosecution or legal action include strengthening the State definition of child abuse; modifying certain evidentiary restrictions such as the corroboration requirement, and the qualification of child abuse victims as witnesses to allow for the age of the child; or establishing procedures for closed-circuit televising or videotaping of victims' testimony that ensure procedural fairness while minimizing trauma for the victim. Reforms to improve procedures to protect children from abuse include providing a guardian ad litem to make an independent investigation and report to the court, recommending actions in the best interest of the child; giving courts authority to grant civil protection orders to protect children from further abuse; or providing treatment programs for child abusers, especially sexual abusers, and child victims.

To be eligible for the grant funds, a State must also adopt some of the reforms recommended by the task force; if the State fails to adopt any recommendations in a category, it must submit a detailed explanation to the Secretary. Proof that the State has made substantial improvement in implementing or enforcing State laws or administrative practices in effect at enactment may be accepted as evidence of a State's having made reforms.

The State agency that administers the Child Abuse State Grant program or another appropriate statewide law enforcement agency may administer the grant program, the decision to be made by the State Governor. Grants may be made to the designated State agency by the Secretary upon application, and the applications must include assurances to evidence compliance with the eligibility requirements and for making necessary reports and keeping necessary records.

The National Center on Child Abuse and Neglect is to compile, analyze, publish, and disseminate to the States within 180 days of enactment information on approaches for improving the investigation and prosecution of child abuse cases to reduce the trauma to the child; develop and disseminate to the States model training materials and procedures for training professionals who deal with child sexual abuse victims; and support research to identify effective approaches for accomplishing the above.

The Secretary is to review and evaluate the activities funded under the grant program and report to Congress on the results and steps taken by the National Center to assist States within two years after funds are obligated.

Section 3 authorizes $12 million for each of FYs 1987 and 1988 for the grant program.

Section 4 provides for coordination of child abuse programs between DOJ, Department of Health and Human Services (DHHS), and other relevant agencies or departments designated by the President to assure coverage and prevent overlap and the Secretary is to report to Congress within one year of enactment on the coordination activities.

Section 5 mandates modification of the FBI offense classification system to include the age of the victim and the relationship of the victim to the offenders in the description of offenses involving

sexual exploitation of children and to classify such offenses by using a uniform definition of child.

Section 6 amends the Public Health Service Act to specify the continued applicability of State or local requirements for reporting incidents of suspected child abuse.

X. Changes in Existing Law

In compliance with rule XXVI paragraph 12 of the Standard Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Child Abuse Prevention and Treatment Act

* * * * * * *

Section 1. This act may be cited as the "Children's Justice Act".

* * * * * * *

Sec. 5103.—Child Abuse Prevention and Treatment Demonstration Programs and Projects.

(a) Grants and Contracts; Scope of Activities; Funds for Fiscal Year.—The Secretary, through the Center, is authorized to make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations thereof) for demonstration programs and projects designed to prevent, identify and treat child abuse and neglect. Grants or contracts under this subsection may be—

(1) for the development and establishment of training programs for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of the prevention, identification, and treatment of child abuse and neglect: and training programs for children, and for persons responsible for the welfare of children, in methods of protecting children from child abuse and neglect;

(2) for the establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect cases, to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies, and organizations which request such services:

(3) for furnishing services of teams of professional and paraprofessional personnel who are trained in the prevention, identification, and treatment of child abuse and neglect cases, on a consulting basis to small communities where such services are not available; and

(4) for such other innovative programs and projects, including programs and projects for parent self-help, and for prevention and treatment of drug-related child abuse and neglect,

that show promise of successfully preventing or treating cases of child abuse and neglect as the Secretary may approve.

Not less than 50 per centum of the funds appropriated under this chapter for any fiscal year shall be used only for carrying out the provisions of this subsection.

(b) GRANTS TO STATES; QUALIFICATIONS FOR ASSISTANCE; REDUCTION OF AWARDS; WAIVER OF CERTAIN REQUIRMENTS.—

(1) Of the sums appropriated under this chapter for any fiscal year, not less than 5 per centum and not more than 20 per centum may be used by the Secretary for making grants to the States for the payment of reasonable and necessary expenses for the purpose of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

(2) In order for a State to qualify for assistance under this subsection, such State shall—

(A) have in effect a State child abuse and neglect law which shall include provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;

(B) provide for the reporting of known and suspected instances of child abuse and neglect;

(C) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect;

(D) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such administrative procedures, such personnel trained in child abuse and neglect prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and service as may be necessary or appropriate to assure that the State will deal effectively with child abuse and neglect cases in the State;

(E) provide for methods to preserve the confidentiality of all records in order to protect the rights of the child, and the child's parents or guardians;

(F) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

(G) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be provided to represent the child in such proceedings;

(H) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to assure that Federal funds made available under this chapter for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

(I) provide for dissemination of information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect;

(J) to the extent feasible, insure that parental organizations combating child abuse and neglect receive preferential treatment; and

(K) within one year after October 9, 1984, have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for (i) coordination and consultation with individuals designated by and with appropriate health-care facilities, (ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), and (iii) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

If a State has failed to obligate funds awarded under this subsection within eighteen months after the date of award, the next award under this subsection made after the expiration of such period shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

(3)(A) Subject to subparagraph (B) of this paragraph, any State which on October 9, 1984 does not qualify for assistance under this subsection may be granted a waiver of any requirement under paragraph (S) of this subsection—

(i) for a period of not more than one year, if the Secretary makes a finding that such State is making a good-faith effort to comply with any such requirements, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

(ii) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets

only biennially, if the Secretary makes a finding that such State is making a good-faith effort to comply with any such requirement.

(B) No waiver under subparagraph (A) may apply to any requirement under paragraph (2)(K) of this subsection.

(4) Programs or projects related to child abuse and neglect assisted under Part B or title IV of the Social Security Act (42 U.S.C.A. 620, et seq.) shall comply with the requirements set forth in clauses (B), (C), (E), (F), and (K) of paragraph (2).

(c) ADDITIONAL GRANTS TO STATES; PURPOSE; TRAINING AND TECHNICAL ASSISTANCE; INFORMATION AND RESOURCE CLEARINGHOUSE; USE OF FUNDS.—

(1) The Secretary is authorized to make additional grants to the States for the purpose of developing, establishing and operating or implementing—

(A) the procedures of programs required under clause (K) of subsection (b)(2) of this section:

(B) information and education programs of training programs for the purpose of improving the provision of services to disable infants with life-threatening conditions for (i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services and programs and health care facilities, and the parents of such infants; and

(C) programs to help in obtaining or coordinating necessary services including existing social and health services and financial assistance for families of disabled infants with life-threatening conditions and those services necessary to facilitate adoptive placement of such infants who have been relinquished for adoption.

(2)(A) The Secretary shall provide, directly or through grants or contract, with public or private nonprofit organizations, for (i) training and technical assistance programs to assist States in developing, establishing, and operation or implementation programs as procedures meeting the requirements of clause (K) of subsection (b)(2) of this section; and (ii) the establishment and operation of national and regional information and resource clearinghouses for the purposes of providing the most current and complete information regarding medical treatment procedures and resources and community resources for the provision of service and treatment for disable infants with life-threatening conditions (including compiling, maintaining, updating, and dissemination regional directories of community service and resources (including names and phone numbers of State and local medical organizations) to assist parents, families, and physician and seeking to coordinate the availability of appropriate regional education resources for health-care personnel).

(B) Not more than $1,000,000 of the funds appropriated for any fiscal year under section 5104 of this title may be used to carry out this paragraph.

(C) Not more than 210 days after Oct. 9, 1984, the Secretary shall have the capability of providing and begin to provide the

training and technical assistance described in subparagraph (A) of this paragraph.

"(d)(1) In addition to grants made to States under subsection (b), the Secretary is authorized to make grants to States for the purpose of assisting States in the developing, establishing, operating, or implementing programs or procedures for—

"(A) handling child abuse cases, especially child sexual abuse cases, in a manner which reduces the trauma to child victims;

"(B) improving the chances of successful prosecution or legal action against individuals who abuse children, especially individuals who sexually abuse children, or

"(C) improving procedures for protecting children from abuse, in accordance with the eligibility requirements of this subsection. Grants under this subsection may be made to the State agency which administers funds received under subsection (a) or to an appropriate statewide law enforcement agency which has developed a sexual abuse program which meets the requirements of paragraph (2). The determination as to which agency of a State may apply for a grant pursuant to the preceding sentence shall be made by the chief executive officer of such State.

"(2)(A) In order for a State to qualify for assistance under this subsection, such State shall, except as provided in subparagraphs (B) and (C)—

"(i) establish a multidisciplinary task force as provided in paragraph (3); and

"(ii) adopt reforms recommended by the multidisciplinary task force in each of the three categories provided in subparagraphs (B), (C), and (D) of paragraph (3).

For purpose of clause (ii), reforms may include proof that the State has made substantial improvement in implementing or enforcing State laws or administrative practices in effect on the date of enactment of the Children's Justice Act as recommended by the task force of such State under paragraph (3).

"(B) If the Secretary determines, at the request of any State on the basis of information submitted by the State that such State—

"(i) has established a multidisciplinary task force within the 3 years prior to the enactment of the Children's Justice Act with substantially the same functions as the multidisciplinary task force provided for under this subsection, and

"(ii) is making satisfactory progress toward developing, establishing, operating, or implementing the programs or procedures in the three categories provided in subparagraphs (B), (C), and (D) of paragraph (3) and will continue to do so.

then such State shall not be required to meet the requirements of subparagraph (A).

"(C) A State may adopt reforms recommended by the task force of such State in less than all three of the categories provided in subparagraphs (B), (C), and (D) of paragraph (3), but in the event that a State fails to adopt any recommendation in a category the State shall submit to the Secretary a detailed explanation of the reasons for the State not planning to carry out any such omitted recommendation.

"(3)(A) A state desired to receive a grant under this subsection shall establish a multidisciplinary task force on children's justice

composed or professionals experienced in the criminal justice system and it's operation relating to issues of child abuse. The task force shall include representatives of the law enforcement community, judicial officers including representatives of the prosecution and the defense, child protective services, child advocates, health and mental health professionals, and parents. Each State task force shall, for fiscal year 1987, review, analyze, and make recommendations for reforms needed to improve the response of such State to child sexual abuse cases in each of the categories described in subparagraphs (B), (C), and (D).

"(B) A state shall provide for the handling of Child abuse cases, especially child sexual abuse cases, in a manner which reduces the trauma to the child victim. Administrative procedures consistent with the reduction of trauma may include—

"(i) the establishment of interdisciplinary teams of child abuse professionals such as law enforcement officers, child protective service workers, prosecutors, child advocates, mental health professionals, and medical personnel for handling child abuse cases;

"(ii) coordinated court proceedings for handling intrafamily child abuse; or

"(iii) providing for specialized training of law enforcement, legal, judicial, and child welfare personnel to deal with child abuse victims and their families.

"(C) A State shall establish reforms designed to improve the chances of successful prosecution or legal action against individuals who abuse children, especially individuals who sexually abuse children. Such reforms may include—

"(i) strengthening the State definition of child sexual abuse;

"(ii) modifications of certain evidenciary restrictions such as the corroboration requirement, and the qualification of child sexual abuse victims as witnesses to allow for the age of child sexual abuse victims; or

"(iii) establishing procedures for the closed circuit televising or videotaping of victims testimony under circumstances which ensure procedural fairness while minimizing the trauma to the child abuse victim, especially child sexual abuse victim.

"(D) In order to improve procedures to protect children from abuse, especially child abuse, a State shall establish administrative reforms by law or, if possible, pursuant to law by administrative action, such as—

"(i) providing a guardian ad litem who is assigned to make an independent investigation and report to the court on recommendations regarding what action should be taken that would be in the best interests of the child;

"(ii) granting courts authority to grant civil protection orders to protect children from further abuse; or

"(iii) providing treatment programs for the individual who abuses children, especially the individual who sexually abuses children, and the abused child.

"(4) A grant authorized by this subsection may be made by the Secretary upon application which is made at such time or times and contains or is accompanied by such information as the Secretary may prescribe. Each such application shall—

"(A) contain such assurances as may be necessary to evidence compliance with paragraphs (2) and (3);

"(B) contain assurances that the State will comply with the requirements of paragraph (2)(A)(ii) during the fiscal year for which the grant is made; and

"(C) provide for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(5)(A) In order to assist the States in developing effective approaches to achieve the objectives set forth in paragraph (1), the Secretary, through the National Center on Child Abuse and Neglect established pursuant to section 2(a) shall—

"(1) compile, analyze, publish, and disseminate to each State a summary, including an evaluation of the effectiveness or lack thereof, of approaches, being utilized, developed, or proposed with respect to improving the investigation and prosecution of child sexual abuse cases in a manner which reduces the trauma to the child victim along with such other materials or information as may be helpful to the States in developing or implementing programs or procedures to satisfy the requirements of this subsection:

"(ii) develop and disseminate to appropriate State and official model training materials and procedures to help ensure that all law enforcement, legal, judicial, and child welfare personnel are adequately trained to deal with child sexual abuse victims; and

"(iii) provide for the support of research projects to assist in identifying effective approaches to achieving the objectives of this subsection.

"(B) Not later than two years after the date funds are obligated under section 5(c) for the first time, the Secretary shall—

"(i) review and evaluate the effectiveness of the activities carried out with such funds in achieving the objectives of this subsection; and

"(ii) report to the appropriate committees of the Congress on the results of such review and evaluation and on the steps taken by the Secretary, through the National Center on Child Abuse and Neglect Center, to assist the States in achieving such objectives.

"(C) The summary, information, and materials required under subparagraph (A) shall be made available to appropriate State officials not later that 180 days after the date of the enactment of this subsection.".

[(d)**]** *(e)* PROHIBITION OF ASSISTANCE FOR CONSTRUCTION OF FACILITIES; LEASE OR RENTAL AND ALTERATION OR REPAIR OF FACILITIES.—Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

[(e)] *(f)* CRITERIA FOR EQUITABLE DISTRIBUTION OF ASSISTANCE.—The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance for at least one project under this section.

[(f)] *(g)* DEFINITION.—For the purposes of this section, the term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam and the Trust Territories of the Pacific.

[(g)] *(h)* AVAILABILITY OF ASSISTANCE FOR PREVENTION OF CHILD ABUSE AND NEGLECT.—The Secretary, in consultation with the Advisory Board on Child Abuse and Neglect, shall ensure that a proportionate share of assistance under this subchapter is available for activities related to the prevention of child abuse and neglect.

AUTHORIZATION

SEC. 5104. AUTHORIZATION OF APPROPRIATIONS AND FUNDING REQUIREMENTS FOR CHILD ABUSE AND NEGLECT AND SEXUAL ABUSE PROGRAMS OR PROJECTS.—There are hereby authorized to be appropriated for the purposes of this subchapter $15,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975, $25,000,000 for the fiscal year ending June 30, 1976, and for the succeeding fiscal year, $25,000,000 for the fiscal year ending September 30, 1978, $27,000,000 for the fiscal year ending September 30, 1979, and $30,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively. There are hereby further authorized to be appropriated for the purposes of this subchapter $33,500,000 for fiscal year 1984, $40,000,000 for fiscal year 1985, and $41,500,000 for fiscal year 1986, and $43,100,000 for fiscal year 1987. Of the funds appropriated for any fiscal year under this section except as provided in the succeeding sentence, (A) not less than $9,000,000 shall be available in each fiscal year to carry out section 5103(b) of this title (relating to State grants), (B) not less than $11,000,000 shall be available in each fiscal year to carry out sections 5103(a) (relating to demonstration or service projects), 5101(b)(1) and 5101(b)(3) (relating to training, technical assistance, and information dissemination) of this title, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funding by the Department of Health and Human Services) of national or regional scope and demonstrated effectiveness. (C) $5,000,000 shall be available in each such year for the purpose of making additional grants to any fiscal year in which the total amount appropriated under this section is less than $30,000,000, funds shall first be available as provided in clauses (A) and (B) in the preceding sentence and of the remainder one-half shall be available as provided for in clause (C) and one-half as provided for in clause (D) in the preceding sentence.

"(B) There are authorized to be appropriated $12,000,000 for each of the fiscal years 1987 and 1988 for the purposes of making grants under subsection (d) of section 4.".

SEC. 5106. COORDINATION OF FEDERAL PROGRAMS; REGULATIONS, ARRANGEMENTS.—The Secretary shall promulgate regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination between programs related to child abuse and neglect under this chapter and other such programs which are assisted by Federal funds—

(a) Within 180 days of the date of enactment of this Act and every 6 months thereafter, the Attorney General, the Secretary of Health and Human Services, Secretary of Education, and the head of any other agency or department designated by the President, or their designees, responsible for programs involving child abuse prevention and treatment shall meet for the purpose of coordinating such programs in order to—

(1) prevent the overlap of such programs and the resulting waste of resources; and

(2) assure that such programs effectively address all aspects of the child abuse problem.

(b) Within one year of the date of enactment of the Children's Justice Act and annually thereafter, the Secretary of Health and Human Services shall report to Congress with respect to the actions carried out by agencies and departments of the United States for the purpose of coordinating programs involving child abuse prevention and treatment as provided in paragraph (1).

MODIFICATION OF FBI OFFENSE CLASSIFICATION SYSTEM

SEC. 5. The Attorney General shall modify the classification system used by the National Crime Information Center in its Inter-State Identification Index, and by the Identification Division of the Federal Bureau of Investigation in its Criminal File, with its Uniform Crime reporting system, with respect to offenses involving sexual exploitation of children by—

(1) including in the description of such offenses the age of the victim and the relationship of the victim to the offenders; and

(2) classifying such offenses by using a uniform definition of a child.

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION CONFIDENTIALITY OF RECORDS

SEC. 290dd-3. (a) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) subsections (e) and (i), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b)(1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to

such extent, under such circumstance, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g);

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, or program evaluation, but such personnel may not identify, direction or indirectly any individual patient in any report of such research, audit or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of court of competent jurisdiction granted after application showing good cause therefore. In assessing good cause the court shall with the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e)(e) The prohibitions of this section do not apply to any interchange of records——

(1) within the Armed Forces or within the components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) Except as provided in subsection (h) of this section, the Secretary, after consultation with the Administrator of Veterans' Affairs and the heads of other Federal departments and agencies substantially affected thereby, shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purpose of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) The administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, pre-

scribe regulations making applicable the regulations established by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

"(i) Nothing in this section shall be construed to supersede the application of State or local requirements for the reporting or incidences of suspected child abuse to the appropriate State or local authorities."

CONFIDENTIALITY OF PATIENT RECORDS

SEC. 290ee–3 (a). Records of the identity, diagnosis, prognosis, or treatment of any patient with care maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by an department or agency of the United States shall, except as provided in subsection (e) "subsections (e) and (i)", be confidential and be disclosed only for purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b)(1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purposes of conduction scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly and individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a)

may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e) The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within the components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(g) Except as provided in subsection (h) of this section, the Secretary, after consultation with the Administrator of Veterans' Affairs and the heads of other Federal departments and agencies substantially affected thereby, shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purpose of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) The administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations established by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

"(i) Nothing in this section shall be construed to supersede the application of State or local requirements for the reporting or incidences of suspected child abuse to the appropriate State or local authorities."

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